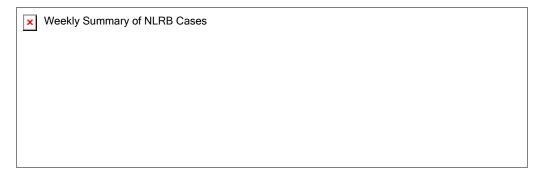
ABOUT THE WEEKLY SUMMARY

The Weekly Summary of NLRB cases, as the name implies, is a publication that summarizes each week all published NLRB decisions in unfair labor practice and representation election cases, except for summary judgment cases. It also lists all decisions of NLRB administrative law judges and direction of elections by NLRB regional directors. Links are established from the weekly summary index to the summaries and from the summaries to the full text of the decisions.



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Carpenters Northeast Illinois District and Locals 13 and 1185 (Millenium Construction) (13-CD-597, 601; 336 NLRB No. 96) Chicago, IL Nov. 9, 2001. The Board in this Section 10(k) proceeding determined that Millenium's employees represented by

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and appliances, hardwood floors and subflooring, framing work, and general clean-up work performed by Millenium at its jobsites located at 841 W. Monroe Street and 910 W. Madison Street in Chicago, Illinois. In making the award, the Board relied on the factors of employer preference, current work assignment, and the economy and efficiency of operations. [HTML] [PDF]

Laborers Local 6 are entitled to perform the installation of dry wall, cabinetry, wood trim and baseboards, doors, countertops

(Chairman Hurtgen and Members Liebman and Walsh participated.)

IRIS U.S.A., Inc. (32-CA-17763, 32-RC-4669; 336 NLRB No. 98) Stockton, CA Nov. 9, 2001. Members Liebman and Walsh adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act by maintaining a rule in its handbook that instructs employees to keep information about employees strictly confidential. Citing Farah Mfg. Co., 187 NLRB 601, 602 (1970), the majority said that the mere maintenance of an unlawful rule "serves to inhibit the employees' engaging in other protected organizational activity." Additionally, Members Liebman and Walsh stated: [HTML] [PDF]

[T] he rule here was strengthened by language adding that '[a]ny doubts about the confidentiality of information should be

resolved in favor of confidentiality.' By this language, which sent the clear message to its employees that any questions about the applicability of this rule must be resolved on the side of prohibiting the disclosure of the information, the Respondent further suggested to employees that engaging in certain Section 7 activities would not be tolerated. In these circumstances, we find that the Respondent's maintenance of this unlawful rule during the critical period may have directly accounted for the Petitioner's margin of defeat. [The revised tally of ballots reflected 43 votes for, and 43 against, the Union.] Accordingly, we shall adopt the judge's findings and direct a new election.

was unlawful. However, he did not find that the mere maintenance of the rule warrants overturning the election and, therefore, would certify the election results. He noted that the rule antedated the Union's campaign and found no evidence that the rule was promulgated in response to any union or protected activity. In the Chairman's view, there is no evidence that the rule was ever enforced in connection with the Union or other concerted activity, that the Employer applied the rule at any relevant time, and that the rule caused any employee to refrain from discussing wages, hours, and terms and conditions of employment, or in any way impeded exercise of protected rights during the critical period prior to the election. He found it "virtually impossible to conclude that the [mere maintenance of the rule] could have affected the election results."

Chairman Hurtgen, dissenting in part, agreed with his colleagues that the Respondent's maintenance of the non-disclosure rule

(Chairman Hurtgen and Members Liebman and Walsh participated.)

Charge filed by Machinists Lodge 2182; complaint alleged violation of Section 8(a)(1). Hearing on Dec. 14, 2000. Adm. Law Judge Mary Miller Cracraft issued her decision April 5, 2001.

Outdoor Venture Corporation (O.V.C.) (9-CA-34709, et al.; 336 NLRB No. 97) Stearns, KY Nov. 9, 2001. In the earlier proceeding reported at 327 NLRB 706 (1999), the Board denied the Respondent's motion for summary judgment in Case 9-CA-34709. In this supplemental decision and order, Chairman Hurtgen and Member Liebman affirmed the administrative law judge's recommended dismissal of the complaint alleging that the Respondent violated Section 8(a)(3) and (1) of the Act by failing to reinstate the strikers on their unconditional offer to return to work and withdrawing recognition from the Union in March 1997 and Section 8(a)(5) and (1) by ceasing to withhold union dues in August 1997 pursuant to a checkoff arrangement authorized by the collective-bargaining agreement. [HTML] [PDF]

In the fall of 1995, the Respondent and the Union began negotiations for a new collective-bargaining agreement to replace the contract that expired in November 1995. The parties were unable to reach an agreement that satisfied the employees and on August 12, 1996, the employees began an economic strike. On September 26, the Respondent's president and chief executive officer, J.C. Egnew, met with strikers on the picket line and discussed a wide range of matters that were also subjects of negotiations. Negotiations continued and the strike ended on February 26, 1997 when the Union made an unconditional offer

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to return to work on behalf of the striking employees. The Respondent refused to offer immediate reinstatement on the basis that the strike was economic and the strikers had been permanently replaced. The Respondent subsequently withdrew recognition from the Union, relying on a decertification petition signed by a majority of its work force, including replacements. The judge found that the Respondent engaged in unlawful direct dealing at the September 26 meeting on the picket line but

determined the General Counsel failed to prove that the direct dealing contributed to prolonging the strike. The majority upheld the judge's finding that the strike remained economic at all times. The Union contended that the judge erred in finding that a strike by the Respondent's employees was not converted to an unfair labor practice strike.

and determine precisely what was said at the September 26, 1996 meeting between the Respondent and strikers on the picket line. He found merit in the Union's argument that if Egnew unlawfully made promises to the employees on September 26, those promises may have contributed to prolonging the strike.

Dissenting in part, Member Walsh would remand this case to the judge to explicitly resolve a material conflict in the testimony

(Chairman Hurtgen and Members Liebman and Walsh participated.)

Charges filed by Needletrades Employees (UNITE); complaint alleged violation of Section 8(a)(1), (3) and (5). Hearing at Whitley City, KY on June 15 and 16, 1999. Adm. Law Judge James L. Rose issued his decision Sept. 15, 1999.

* * *

All Seasons Construction, Inc. (15-CA-14748, et al.; 336 NLRB No. 94) Shreveport, LA Nov. 8, 2001. The Board affirmed the administrative law judge's ruling that the Respondent violated Section 8(a)(1) of the Act by, among others, interrogating employees about their union affiliation, telling them that there will be no wage increases, threatening them with unspecified reprisals and imposing a discriminatory no-talking rule, and Section 8(a)(3) by disciplining, suspending, and laying off an employee, refusing to hire or consider for hire five individuals, and refusing to consider for hire six individuals. [HTML]

(Chairman Hurtgen and Members Liebman and Walsh participated.)

Charges filed by Carpenters Local 764; complaint alleged violation of Section 8(a)(1) and (3). Hearing in Shreveport on January 23 and 24, 2001. Adm. Law Judge Jane Vandeventer issued her decision June 29, 2001.

* * *

Pontiac Osteopathic Hospital (7-CA-42660; 336 NLRB No. 101) Detroit, MI Nov. 14, 2001. Agreeing with the administrative law judge, the Board held that the Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally changing its paid-time off (PTO) benefits and procedures for technical employees without affording the Auto Workers (UAW) an opportunity to bargain with respect to the change and its effects. The Board found, as did the judge, that the Union made a timely and sufficient demand to bargain with the Respondent regarding these changes. It also found the Respondent presented the changes to the Union as a fait accompli and the Union did not waive its right to bargain over the changes. [HTML] [PDF]

Chairman Hurtgen did not pass on whether the Union made a request to bargain about the PTO, explaining: "Even assuming arguendo that there was a failure to make such a request, the Respondent's presentation of a fait accompli meant that such a failure was excused and was not tantamount to a license for Respondent to make the unilateral change."

The Board entered an order requiring the Respondent to cease and desist from unilaterally changing its PTO policy and procedures without first bargaining to a lawful impasse with the Union; to rescind, as to the technical unit, the January 2, 2002 PTO policy changes; and to make unit employees whole for any losses they may have suffered as a result of the Respondent's unlawful unilateral changes in the PTO program and procedures. In a clarification of the judge's recommended remedy, the Board required the Respondent to permit unit employees to restore used paid time off to their PTO banks by paying back the Respondent for any used paid time off that they want restored to their bank.

(Chairman Hurtgen and Members Liebman and Walsh participated.)

Charge filed by Auto Workers UAW; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Detroit on Sept. 27, 2000. Adm. Law Judge Nancy M. Sherman issued her decision Dec. 14, 2000.

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Kodiak Electric Co. and Kodiak Line Co. (5-CA-28319; 336 NLRB No. 103) Baltimore, MD Nov. 13, 2001. The Board affirmed the administrative law judge's conclusions, as modified, and held that (1) Kodiak Electric Co.'s sole owner and president, Timothy Demski, created Kodiak Line Co., in substantial part, to evade obligations under Kodiak Electric's contract with Electrical Workers IBEW Local 24; (2) Kodiak Line is the disguised continuance of, and the alter ego of, Kodiak Electric Co.; (3) the Union is the exclusive collective-bargaining representative of certain unit employees within the meaning of Section 8(f) of the Act; and (4) the Respondent violated Section 8(a)(5) and (1). [HTML] [PDF]

Specifically, the Respondent unlawfully refused to apply the terms of its collective-bargaining agreements with the Union to the unit employees, including payment to them of contractual wages and payment on their behalf of fringe benefits contributions; failed to honor the contractual referral procedures and, instead, hired employees directly and without notification to the Union; and repudiated its recognition of, and contract with, the Union by causing work obtained by Kodiak Electric Co. to be performed by Kodiak Line Co.

(Chairman Hurtgen and Members Liebman and Walsh participated.)

Charge filed by Electrical Workers IBEW Local 24; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Baltimore, Jan. 27 and Feb. 15-16, 2000. Adm. Law Judge Irwin H. Socoloff issued his decision Nov. 27, 2000.

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LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Stanadyne Automotive Corp. (Auto Workers [UAW]) Windsor, CT Nov. 9, 2001. 34-CA-9365; JD(NY)-56-01, Judge Raymond P. Green.

Crittenton Hospital (Office Employees Local 40; Service Employees Local 79; et al.) Rochester, MI Nov. 13, 2001. 7-CA-42695, et al.; JD-142-01, Judge C. Richard Miserendino.

Sunlight Trading, Inc. (an Individual) Miami, FL November 16, 2001. 12-CA-21312-2; JD(ATL)-72-01, Judge Keltner W. Locke.

* * *

NO ANSWER TO COMPLAINT

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the respondent's failure to file an answer to the complaint.)

Four J. Foods Corp. d/b/a Park Avenue Gourmet (2-CA-33721-1; 336 NLRB No. 100) New York, NY November 9, 2001.